

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

Case No. 7:23-CV-00292-M

TYRANCE DREQUAN BENBOW,
BECKY LEE LaSALLE, individually, as
heir to Tyrance Drequan Benbow and as
representative of the estate of
Tyrance Drequan Benbow, deceased,

Plaintiffs,

v.

JOHN W. INGRAM, in his individual
and official capacities as the Sheriff of
Brunswick County, North Carolina,
JOSH DAVIES, in his individual
capacity as Sergeant of the BCSO
Drug Enforcement Unit,
KEITH E. BOWLING, in his
individual capacity as a Deputy
Sheriff for the Brunswick County
Sheriff's Office,
ALEXANDER MELVIN, in his
individual capacity as a Deputy
Sheriff for the Brunswick County
Sheriff's Office,
JOHNNIE BENTON, in his individual
capacity as a Deputy Sheriff for the
Brunswick County Sheriff's Office,
and
JOHN DOES I-X inclusive,

Defendants.

ORDER


These matters come before the court on Defendant Mark Hewett's motion to dismiss the claims against him [DE 69] and Defendants Sheriff John Ingram, Josh Davies, Keith Bowling, Alexander Melvin, and Johnnie Benton's ("BSCO Defendants") motion for partial dismissal of the Amended Complaint [DE 72]. Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil

Procedure 72(b), United States Magistrate Judge Robert B. Jones, Jr. entered a memorandum and recommendation (“M&R”), recommending that the court deny Hewitt’s motion as moot and grant the BSCO Defendants’ motion. DE 101. To date, no objections have been filed.¹

A magistrate judge’s recommendation carries no presumptive weight. The court “may accept, reject, or modify, in whole or in part, the . . . recommendation[] . . . receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the M&R and the record presented, and finding no clear error, the court ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, Defendant Mark Hewitt’s Motion to Dismiss [DE 69] is DENIED AS MOOT, and the BSCO Defendants’ “Partial Motion to Dismiss Amended Complaint” [DE 72] is GRANTED. Counts IV, V, and VIII set forth in the operative Amended Complaint (DE 66) are DISMISSED.

SO ORDERED this 20th day of June, 2024.


RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE

¹ Judge Jones issued the M&R on May 8, 2024. Objections were due to be filed on or before May 22, 2024. *See* DE 101. The parties’ motions and M&R were submitted to this court for disposition on June 4, 2024.